IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

WP(C).No. 26441 of 2007(W)

PETITIONER:

**ANAKKAYAM SERVICE CO-OPERATIVE BANK LTD
NO.F 880, P.O. ANAKKAYAM,MANCHERY,MALAPPURAM,
REP. BY ITS PRESIDENT.**

BY ADV. SRI.P.P.JACOB

RESPONDENTS:
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1. THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIEITES (G) MANCHERY,MALAPPURAM.

2. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIEITES (G) MANCHERY,MALAPPURAM.

3. THE OFFICE INSPECTOR, OFFICE OF THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIEITES (G) MANCHERY,MALAPPURAM.

BY GOVERNMENT PLEADER SMT. ANU SIVARAMAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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W.P.(c).No.26441 OF 2007

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Dated this the 6th day of November , 2007

JUDGMENT

Petitioner is a Co-operative Society. It challenges Exts.P3, P5 and P6. Ext.P3 is an order dated 04/01/2007 ordering enquiry under Section 65. In Ext.P3 two months was fixed. Ext.P5 is dated 19/03/2007. Extension is granted by Ext.P5 to complete the enquiry by 30/04/2007. Ext.P6 is dated 03/05/2007 evidencing extension of time till 31/08/2007 to complete the enquiry under Section 65. Petitioner challenges the same.

I heard learned counsel for the petitioner and also the learned Government Pleader. Learned counsel for the petitioner would submit that the enquiry has been ordered on the basis of the complaint by the member of the committee. He submits that under Section 65 enquiry cannot be ordered unless 1/3 of the members as contemplated in Section 65 have given complaint. He would further contend that Ext.P3 is dated 04/01/2007 and the time fixed thereunder expired on 03/03/2007. However Ext.P5 evidences extension of period only after the expiry of the period

namely on 19/03/2007. This is impermissible, he contends. Moreover, he contends that under Section 65(1)(d) enquiry has to be completed within a period of six months. The period fixed is mandatory, it is contended. The period expired on 03/07/2007. He would therefore submit that the enquiry report procured after the expiry of the mandatory period cannot be made use of in law. He submits that even though petitioner made an application for a copy of the report on the basis which enquiry under Section 65 was ordered. Ext.P4 evidences that it was not furnished to the petitioner. He was asked to approach the Joint Registrar. Petitioner has not received the report. It is also stated that under the Act and the Rules there are routine inspections and enquiries conducted by the officers. An enquiry under Section 65 can be ordered only when conditions mentioned in Section 65 stands satisfied which are are not satisfied in the facts of this case, it is submitted.

Per contra, learned Government Pleader would contend that there is a preliminary enquiry on the basis of the complaint received which revealed irregularities in the matter of appointment, disbursement of loans and mis-utilisation of funds. On the basis of the same, enquiry was ordered. She would submit

that the period under Section 65 (1)(d) is not mandatory. She would further point out that where the time is fixed for doing a thing by a statutory authority, it cannot be said that the period is mandatory. As far as the non-receipt of the report which is the basis of the enquiry under Section 65, she submits that the said report will be made available to the petitioner even though it is not strictly mandatory to supply such a report. As far as the enquiry being ordered under Section 65 is concerned, it is pointed out that there is no merit in the same.

The most important contention raised by the learned counsel for the petitioner is that the period fixed under Section 65 (1)(d) has expired on 03/07/2007. I am of the view that having regard to the setting of the section and the purport of the section, it cannot be said that expiry of the period will be fatal to the validity of the report. It is a report to be made by a statutory authority. The fact that the time limit is exceeded should not, I think, render the report vulnerable in law. Such a view would have the consequence of delay however small it is, impairing the report. It is not difficult to contemplate situations where it may not be possible to complete enquiry within the time prescribed. To say that entire period spent up to six months should go waste,

I would think is clearly un-acceptable. I also fail to see the prejudice that will be caused by some delay in completing the enquiry. I hasten to add that this should not be understood as my holding that however gross the delay may be, the law will excuse the delay. Learned Government Pleader submits that the enquiry was completed on 31/08/2007 and in fact the enquriy was commenced on 21/02/2007 and report submitted on 01/09/2007. Having regard to the nature of the allegations which were enquired into, I see no merit in the contention of the petitioner that this is not a case where enquiry under Section 65 could not have been ordered. I reject the contentions of the petitioner. However, there will be a direction to the second respondent to make available the report of the Assistant Registrar which is the preliminary report and the subject matter of Ext.P4 within a period of three weeks from the date of receipt of a copy of this judgment. It is also made clear that second respondent will necessarily abide by the terms of Section 65 in proceeding in the matter further.

(K.M.JOSEPH, JUDGE)

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